

CITY OF MINNEAPOLIS  
LICENSES AND CONSUMER SERVICES  
350 SOUTH 5<sup>TH</sup> STREET, ROOM 1-C, CITY HALL  
MINNEAPOLIS, MN 55415

**FINDINGS OF FACT  
CONCLUSIONS, AND  
RECOMMENDATIONS**

In the Matter of License No. L200 39384 BROTHERS  
for LIQ ON-SALE B W/SS SERIES 3000

Held by:  
**BROTHERS OF MINNEAPOLIS INC**  
**ATTN: MARC FORTNEY**  
**430 1ST AVE N #35**  
**MINNEAPOLIS, MN 55401**

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12-0899143

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This matter came before a License Settlement Conference hearing on Monday, February 13, 2012. Appearing for the licensee were Eric Fortney, owner of Brothers; Mike Horton, Regional Manager of Brothers; Andrew McDonough, General Manager of Brothers; Josh Knuckeberg, Assistant General Manager of Brothers; and Justin Soll, Assistant General Manager of Brothers. Appearing for the City of Minneapolis were Grant Wilson, Manager of Licenses & Consumer Services; Craig Eliason, Inspector for Licenses & Consumer Services; Greg Buenning, Inspector for Licenses & Consumer Services; Lt. Chris Hildreth, Commander of the Minneapolis Police License Investigative Division; Sergeant Rolf Markstrom, Minneapolis Police License Investigative Division; and Officer John Chamberlain of the Minneapolis Police Department 1<sup>st</sup> Precinct. Based on the evidence presented at the hearing, the following findings of fact are asserted:

**Findings of Fact**

1. The Minneapolis Police Department License Investigative Division conducts youth alcohol compliance checks in an effort to assure retail alcohol license holders are not serving alcohol to persons under the age of 21.
2. On October 28, 2010 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance check at Brothers, located at 430 1<sup>st</sup>

Ave N, in the City of Minneapolis. A 20 year old female shopper and a 19 year old female shopper were sent into the business in an attempt to purchase alcohol. The shoppers walked up to the entrance and presented their IDs to a male bouncer who was carding at the entrance. After checking the IDs, the bouncer allowed the shoppers entrance into the business. The shoppers then entered the business and took a seat at the bar. Each shopper then ordered a beer from the bar tender. The bar tender served each of the shoppers a beer. Two Minneapolis plain clothes police officers were present, and they observed the bouncer card the shoppers, and they also observed the bar tender serve the beers to the shoppers. The shoppers handed their respective beers off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. As a result of the compliance check failure, an administrative citation was issued to Brothers in the amount of \$500.00, as detailed in a City Council Resolution. Brothers has paid the \$500.00 administrative fine.

3. On November 30, 2010 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance re-check at Brothers, pursuant to the above compliance check failure. 2 underage shoppers were sent into Brothers in an attempt to purchase alcohol. The underage shoppers were carded and refused service. The business passed the compliance re-check.
4. On December 28, 2011 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance check at Brothers for the calendar year of 2011. A 20 year old female shopper was sent into the business in an attempt to purchase alcohol. The shopper took a seat at the bar. The bar tender asked the shopper for her order. The shopper ordered a bottle of beer. The bar tender did not ask the shopper for ID. The bar tender then served the shopper a bottle of beer. 2 plain clothes Minneapolis Police Officers were situated approximately 25 feet away from the shopper and observed the transaction. The shopper picked up the beer and handed it off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. This constituted the second youth alcohol compliance check failure within a 24 month period for Brothers. As a result of the second compliance check failure, an administrative citation was issued to Brothers in the amount of \$1000.00, as detailed in a City Council Resolution. Brothers has not yet paid the \$1000.00 administrative fine.
5. From the first compliance check failure on October 28, 2010, the bouncer was charged with the Sale of Liquor or Beer to Minors, and the bouncer was convicted of said charge. Criminal charges against the bar tender are pending as a result of the December 28, 2011 compliance check failure.

### **Conclusions**

1. On two separate occasions, employees of Brothers sold alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures all occurred in a period of less than 24 months.
2. The licensee has paid the \$500.00 administrative fine related to the first above stated compliance check failure. The licensee has not yet paid the \$1000.00 administrative fine related to the second above stated compliance check failure.

### **Recommendations**

1. Brothers agrees to conduct their own youth alcohol compliance checks on a quarterly basis and keep a record of the results for a period of one year.
2. Brothers will require all staff to attend alcohol server training at least annually.
3. Brothers agrees to schedule an officer from the Minneapolis Police License Investigative Division to provide alcohol server training to all staff.
4. Brothers agrees to review available technology hardware and software for identification scanning devices in order to determine its potential implementation.
5. Brothers agrees to pay a \$1,500 sanction in lieu of suspension for failing a second youth alcohol compliance check. \$1,000 of the sanction is stayed pending no further youth alcohol compliance check failures for a period of one year from the signing of this agreement. \$500 shall be paid at the time of signing this agreement.
6. Brothers agrees to pay the \$1,000 administrative fine related to the second above stated compliance check failure at the time of signing this agreement.

Brothers understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility. A minimum standard shall be met in order to hold such a license. One minimum standard is that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances, and regulations. It is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

Business

BROTHERS & Mpls Inc.  
By: [Signature]  
(signature)

Its: Owner / VP-Sec  
(title)

Dated: 3-12-, 2012

For the City of Minneapolis:

[Signature]  
Grant J. Wilson  
Manager

Dated: 3-16, 2012